

8-21-72

BEFORE THE
UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of

CONSOLIDATED EDISON COMPANY)
OF NEW YORK (Indian Point,)
Unit No. 2) Docket No. 50-247
)
BEFORE THE ATOMIC SAFETY AND)
LICENSING APPEALS BOARD)

CITIZENS COMMITTEE FOR PROTECTION
OF THE ENVIRONMENT
REPLY WITH RESPECT TO EXCEPTIONS
TO INITIAL DECISION ON 20% TESTING LICENSING

In response to our Exceptions, the Staff and the Applicant submitted or promised to submit substantial factual data regarding the fuel rod problem. These submissions clearly demonstrate that a factual issue exists which must be disposed of prior to any authorization for criticality. It would be a clear violation of due process to accept the evidence of Applicant and the Staff on this issue without affording the Intervenor a right of cross-examination or the right to submit other data.

The Appeals Board can receive the further evidence itself (as it did In the Matter of the Trustees of Columbia University (Docket No. 50-208)) or remand the case to Hearing Board. What is clear is that the Appeals Board cannot ignore the fuel rod problem or accept as conclusive, evidence submitted by the Staff or the Applicant. All that evidence reliably establishes is that there is a fuel rod problem and it exists at Indian Point No. 2. Our Exceptions were intended to establish the existence of the

problem and request its resolution before any further licensing.
The Staff and the Applicant have proven our case.

Respectfully submitted,



Anthony Z. Roisman
Counsel for Citizens Committee for
Protection of the Environment

August 21, 1972

BEFORE THE
UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of

CONSOLIDATED EDISON CO.)
OF NEW YORK)
(Indian Point, Unit No. 2))

Docket No. 50-247

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Citizens Committee For Protection Of The Environment Reply With Respect To Exceptions To Initial Decision On 20% Testing Licensing was mailed, postage prepaid this 21st day of August, 1972 to the following:

Samuel W. Jensch, Esq.
Chairman
Atomic Safety & Licensing Board
U. S. Atomic Energy Commission
Washington, D. C. 20545

J. D. Bond, Esq.
Alternate Chairman
Atomic Safety & Licensing Board
18700 Woodway Drive
Derwood, Maryland 20752

Dr. Walter H. Jordan
Oak Ridge National Laboratory
P. O. Box X
Oak Ridge, Tennessee 37830

Dr. John C. Geyer, Chairman
Department of Geography and
Environmental Engineering
The Johns Hopkins University
Baltimore, Maryland 21218

Mr. R. B. Briggs, Director
Molten-Salt Reactor Program
Oak Ridge National Laboratory
P. O. Box Y
Oak Ridge, Tennessee 37830

Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1821 Jefferson Place, N. W.
Washington, D. C.

Dr. John H. Buck
 U. S. Atomic Energy Commission
 Atomic Safety & Licensing
 Appeals Board
 Washington, D. C. 20545

A. A. Wells, Esq.
 Chairman
 Atomic Safety & Licensing
 Appeals Board
 U. S. Atomic Energy Commission
 Washington, D. C. 20545

J. Bruce MacDonald, Esq.
 N. Y. State Dept. of Commerce
 112 State Street
 Albany, New York 12207

Honorable Louis J. Lefkowitz
 Attorney General of New York
 80 Centre Street
 New York, New York

Angus Macbeth, Esq.
 Natural Resources Defense Council
 36 W. 44th Street
 New York, New York 10036

Myron Karman, Esq.
 Office of General Counsel
 U. S. Atomic Energy Commission
 Washington, D. C. 20545
 Mail Station: P506A

Dr. Lawrence Quarles
 Dean
 School of Engineering and
 Applied Science
 University of Virginia
 Charlottesville, Virginia 22901

Secretary, Public Proceedings Branch
 Office of the Secretary
 U. S. Atomic Energy Commission
 Washington, D. C. 20545

Atomic Safety and Licensing
 Board Panel
 U. S. Atomic Energy Commission
 Washington, D. C. 20545

Anthony Z. Roisman

Anthony Z. Roisman